

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Robert G. Taub, Vice Chairman; and  
Mark Acton

Competitive Product Prices  
Priority Mail Contract 29 (MC2011-3)  
Negotiated Service Agreement

Docket No. CP2011-4

ORDER APPROVING AMENDMENT TO PRIORITY MAIL CONTRACT 29  
NEGOTIATED SERVICE AGREEMENT

(Issued December 19, 2013)

I. INTRODUCTION

The Postal Service seeks to amend Priority Mail Contract 29.<sup>1</sup> For the reasons discussed below, the Commission approves the contract, as amended.

In Order No. 574, the Commission approved Priority Mail Contract 29 (Existing Agreement).<sup>2</sup> On December 9, 2013, the Postal Service filed notice that it has agreed to an amendment to the Existing Agreement. On December 11, 2013, the Commission

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<sup>1</sup> Notice of United States Postal Service of Amendment to Priority Mail Contract 29, with Portions Filed Under Seal, December 9, 2013 (Notice). The Amendment is Attachment A to the Notice (Amendment).

<sup>2</sup> See Docket Nos. MC2011-3 and CP2011-4, Order Concerning Priority Mail Contract 29 Negotiated Service Agreement, October 29, 2010 (Order No. 574).

issued an order reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup>

*Amendment.* First, the Amendment changes the duration of the contract from three to five years after the effective date. Notice, Attachment A at 2. Second, the amendment allows two 90-day extensions of the contract if the preparation of a successor agreement is active and the Commission is notified within at least seven days of the contract's expiration date. *Id.* at 3. Finally, it provides pricing for the fourth year of the contract as well as an annual adjustment provision which calculates prices during the fifth year of the contract. *Id.* at 2. The Postal Service asserts that the "supporting financial documentation and financial certification initially provided in this docket remain applicable." Notice at 1.

The Postal Service intends for the Amendment to become effective one business day following the date that the Commission completes its review of the Amendment. *Id.*; Attachment A at 1.

## II. COMMENTS

Comments were filed by the Public Representative.<sup>4</sup> No other interested person submitted comments.

The Public Representative states that he has reviewed the Amendment, the initial contract filed in Docket Nos. MC2011-3 and CP2011-4, the financial model filed under seal, as well as materials filed by the Postal Service in the 2012 Annual Compliance Determination (ACD) relating to the contract. PR Comments at 2. He concludes that the Amendment should generate sufficient revenues to cover costs during the first year of the Amendment (contract year 4) and thereby satisfy 39 U.S.C. § 3633(a). *Id.*

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<sup>3</sup> Order No. 1901, Notice and Order Concerning Amendment to Priority Mail Contract 29, December 11, 2013.

<sup>4</sup> Public Representative Comments on Postal Service Amendment to Priority Mail Contract 29, December 16, 2013 (PR Comments).

### III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

*Cost considerations.* The Commission reviews competitive product prices to ensure that they meet applicable requirements of 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

The Postal Service states that the Amendment will not “materially affect the cost coverage” of the Existing Agreement and that “the supporting financial documentation and financial certification initially provided in this docket remain applicable.” Notice at 1.

The Existing Agreement established prices that would apply in the first contract year and provided annual adjustments for each of the two subsequent contract years.<sup>5</sup> The Amendment extends the contract for an additional two years (contract years 4 and 5), sets prices during contract year 4, and provides an annual adjustment provision for contract year 5. Notice, Attachment A. The Amendment appears to generate sufficient revenues to cover costs during contract year 4, and due to the automatic price increase in contract year 5, the contract will likely continue to cover costs. The Commission will continue to review the cost coverage in ACD to ensure that rates cover costs.

The Amendment does not materially affect the underlying financial analysis of the contract. Thus, the Commission finds that the contract, as amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

*Other considerations.* The Postal Service states that the Amendment shall become effective on the day after the date that the Commission completes its review. The Existing Agreement, as amended, is set to expire five years after the initial effective

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<sup>5</sup> Docket Nos. MC2011-3 and CP2011-4, Request of the United States Postal Service to Add Priority Mail Contract 29 to Competitive Product List and Notice of Filing (Under Deal) of Contract and Supporting Data, October 4, 2010 (Request), at Attachment B 2-3.

date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or renewed by mutual agreement.<sup>6</sup>

The Amendment also contains a provision that allows the parties to extend the contract for two 90-day periods if a successor agreement is being prepared and the Commission is notified within at least seven days of the contract expiring.<sup>7</sup> During the extension periods, prices will increase by the most recent average increase in prices of general applicability, as described in the Amendment. The Commission finds the two potential 90-day extension periods are reasonable because: (1) prices automatically increase in the extension period, making it likely that the contract will continue to cover its attributable costs; and (2) the extension(s) should assist the Postal Service's contract negotiations by providing additional flexibility.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

Within 30 days of the termination of the Existing Agreement, as amended, the Postal Service shall file the annual (by contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the contract.

In conclusion, the Commission approves the Amendment to Priority Mail Contract 29 and the Existing Agreement, as amended is effective immediately.

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<sup>6</sup> *Id.* at 2. Should both parties agree to renew the contract, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.

<sup>7</sup> *Id.* at 3. As the Commission noted in Order No. 1773, the Postal Service clarified that identical language in Priority Mail Contract 60 contemplates the Postal Service filing any notices of extension with the Commission *at least one week prior to* the expiration of the contract, as opposed to the instant contract's "within seven (7) days of the contract expiring." See Docket Nos. MC2013-54 and CP2013-70, Order No. 1773, Order Adding Priority Mail Contract 60 to the Competitive Product List, July 8, 2013, at 3; see also Docket Nos. MC2013-54 and CP2013-70, Response of the United States Postal Service to Chairman's Information Request No. 1, July 1, 2013, question 2.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Existing Agreement, as amended, is approved and is effective immediately.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.
3. Within 30 days after the Existing Agreement, as amended, terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the contract.

By the Commission.

Shoshana M. Grove  
Secretary